

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,
Plaintiffs,**

v.

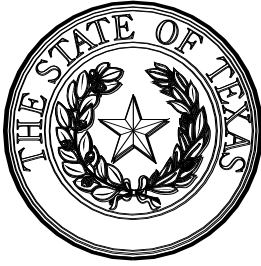
**BRAD LIVINGSTON, *et al.*,
Defendants.**

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No. 4:14-cv-03253

**DEFENDANTS' ANSWER TO PLAINTIFFS'
SECOND AMENDED COMPLAINT**

Exhibit A



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: AD-10.64 (rev. 7)

DATE: March 17, 2015

PAGE: 1 of 13

SUPERSEDES: AD-10.64 (rev. 6)
November 10, 2008

ADMINISTRATIVE DIRECTIVE

SUBJECT: EXTREME TEMPERATURE CONDITIONS IN THE TDCJ

AUTHORITY: Tex. Gov't Code § 493.006

Reference: American Correctional Association Standard: 4-4153; TDCJ
Risk Management Program Manual, Correctional Managed Health Care
(CMHC) Policy Manual D-27.2, "Heat Stress"

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

POLICY:

The TDCJ shall establish guidelines to assist unit administration in adapting offender housing areas and work assignments to temperatures that cannot be controlled by the TDCJ. Guidelines for outside recreation are found in the *Recreation Program Procedures Manual*.

Every reasonable effort shall be made to prevent injuries related to extreme temperatures in the TDCJ. The decision to expose offenders to extreme temperatures, either cold or heat, shall be made by the appropriate on-site staff in order to address the conditions specific to the area in which the facility is located. TDCJ offenders may be required to work in conditions of extreme cold or heat when situations occur requiring specific work be completed regardless of the temperature or weather conditions.

The TDCJ shall work closely with medical staff to immediately identify offenders at risk from extreme temperatures. Incidents related to extreme temperatures shall be reported to TDCJ administration.

DEFINITIONS:

"Wellness Check" is when a correctional officer performing routine security rounds goes to an offender's cell or bunk to visualize the offender for wellness due to the offender previously being identified as having a condition or being on a medication that makes the offender more susceptible to temperature-related issues.

PROCEDURES:

Prior to exposing offenders to extreme temperature conditions, the warden and applicable departmental supervisors shall ensure appropriate measures are taken to prevent extreme temperature-related injuries, including consulting medical staff to identify specific hazards. In all cases of temperature-related incidents or injuries, unit medical staff and the unit risk manager shall be notified immediately. Medical staff shall remove the distressed offender from the environment by the most expeditious means available to receive proper medical treatment.

I. Monitoring Procedures

Procedures and exposure charts, Wind Chill Index (Attachment A), and Heat and Humidity Matrix (Attachment B), are provided to assist unit administration in determining safe working conditions in extreme temperature conditions.

- A. During work assignments, offenders shall be exposed to no more than four hours of extreme temperature conditions at a time, until acclimated to existing weather conditions. Work periods may then be extended as offenders physically acclimate to weather conditions. Appropriate clothing shall be worn to protect offenders from extreme temperature conditions at all times.
- B. Unit staff shall monitor the temperature once every hour between 12:30 a.m. and 11:30 p.m. The temperature shall be announced over the radio every hour between 6:30 a.m. and 6:30 p.m. and documented 24 hours a day on the Temperature Log (Attachment C). If conditions warrant, the warden may also request additional readings.
- C. Temperature Log
 - 1. The warden shall designate a central location to maintain the Temperature Log.
 - 2. The Temperature Log shall indicate the wind chill or heat index.
 - 3. Temperature information is available through the following:
 - a. The National Oceanic and Atmospheric Administration (NOAA) website (www.noaa.gov);
 - b. NOAA Weather Radio;
 - c. Local weather radio and television stations; or
 - d. Onsite weather instrumentation, if available.

4. Temperature Logs shall be maintained in accordance with the TDCJ *Records Retention Schedule*.

II. Extreme Cold Conditions

A. Determination

1. The warden shall use the Wind Chill Index (Attachment A), the local news and weather media, and weather conditions recorded by instruments located at the unit in determining the safety of cold weather working conditions.
2. Clothing considered appropriate for offenders working in cold weather includes: thermal underwear, insulated jackets, cotton or leather gloves, insulated hoods, work shoes, and socks. The Wind Chill Index shall be used to determine the need for insulated hoods and leather gloves. Appropriate clothing shall be issued even when the Wind Chill Index indicates little danger of exposure injury.
3. If guidance is needed, medical staff shall be consulted to assist in determining appropriate clothing and footwear needed to prevent cold injury.
4. Care shall be taken to prevent perspiration, which could soak clothing and thus compromise the insulating value of the clothing.
5. Layers of clothing shall be removed or added according to the temperature and level of physical activity.

B. Symptoms

1. Hypothermia is a condition occurring when the body loses heat faster than it can produce heat. With the onset of this condition, blood vessels in the skin tighten in an attempt to conserve vital internal body heat, affecting the hands and feet first.
2. If the body continues to lose heat, involuntary shivers begin. This reaction is the way the body produces more heat and is usually the first real warning sign of hypothermia.
3. Further heat loss produces speech difficulty, forgetfulness, loss of manual dexterity, collapse, and possibly death.

C. Types of Hypothermia

Hypothermics are divided into the following three categories, depending on the degree of injury.

1. Category One

Injured individuals are conscious, but cold, with a rectal temperature above 90 degrees Fahrenheit (°F). These individuals shall be handled carefully, insulated from further heat loss, and transported to the unit Medical Department for additional care.

2. Category Two

Injured individuals are unconscious and with a rectal temperature of 90°F or below. These individuals shall be handled carefully, insulated from further heat loss, and transported to the unit Medical Department for additional care.

3. Category Three

Injured individuals are comatose with no palpable pulse and no visible respiration. Although these individuals appear to be deceased, there may be a slight chance of recovery if the rectal temperature is 60.8°F or higher. If indicated, medical staff shall proceed with life-saving measures.

If medical staff is unavailable, correctional staff shall follow the procedures outlined in Section V.B. of this directive and contact emergency medical services.

III. Extreme Heat Conditions

A. Determination

1. Guidelines assisting the warden in making the determination that an extreme heat condition is occurring can be found in the Heat and Humidity Matrix (Attachment B). Weather conditions recorded by instruments at the unit, and reports by the local news media shall be used to confirm temperature and humidity conditions. When the temperature is over 85°F, the warden shall use the Heat and Humidity Matrix to determine the heat index, which shall be used as an indicator of the risk for heat-related injury.
2. At any point when the Heat and Humidity Matrix indicates the possibility of heat exhaustion, the warden shall instruct the appropriate staff to immediately initiate the precautionary measures identified in the Heat and Humidity Matrix.

3. If guidance is needed, medical staff shall be consulted prior to exposing offenders to extremely hot working conditions to evaluate the hazards of the current temperatures and humidity, including indoor work areas, such as a boiler room. The hazard of sunburn and other results of ultraviolet (UV) radiation shall also be closely monitored.
4. Offenders shall be provided and required to wear clothing appropriate for the temperatures and hazards imposed by UV radiation. For example, light-colored hats can be used to an advantage in high heat and direct sunlight.
5. Drinking water and cups shall always be available to offenders in conditions of hot weather. High water intake, according to the Heat and Humidity Matrix, shall be encouraged. According to individual medical advice, liquids containing sodium may be used depending on an offender's state of acclimatization to hot weather conditions. Offenders newly-assigned to jobs that require strenuous work under conditions with an apparent air temperature of 90° F or greater must be acclimatized before assuming a full workload. These offenders shall work no more than four hours at a time, separated by at least one hour of rest in a cooler environment, for the first week. After the first week, offenders newly-assigned to jobs may assume a normal work schedule. Acclimatization can be lost in as little as two weeks; therefore, if offenders are away from a hot work environment for more than two weeks, they shall be reacclimatized. Acclimatization is not necessary for individuals assigned to the same job when temperatures vary with seasonal change. Offenders and staff working at apparent air temperatures over 90° F shall be provided access to and encouraged to consume water prior to their work assignment and as needed during the workday.
6. As offenders arrive on intake facilities, a staff member from the medical department shall conduct an initial screening to determine if the offender has any conditions or is on any medication that would make the offender more susceptible to heat. If medical staff determines an offender has a condition or is on a medication that would make the offender more susceptible to heat, correctional staff shall be instructed to perform wellness checks on the offender until a full medical evaluation may be conducted.
7. Offenders under treatment with diuretics or medications that inhibit sweating require special medical evaluation prior to being assigned to work in extreme heat. These offenders shall receive wellness checks in offender housing areas when the Heat and Humidity Matrix indicates the possibility of heatstroke, heat cramps, or heat exhaustion.

B. Symptoms

1. Heatstroke symptoms include:
 - a. Diminished or absent perspiration (sweating);
 - b. Hot, dry, and flushed skin; and
 - c. Increased body temperatures, which if uncontrolled may lead to delirium, convulsions, seizures, and possibly death. Medical care is urgently needed.
2. Heat cramp symptoms include:
 - a. Painful, intermittent, and involuntary muscle spasms following hard physical work in a hot environment; and
 - b. Cramps usually occurring after heavy perspiring, and often beginning at the completion of hard physical work.
3. Heat exhaustion symptoms include:
 - a. Profuse perspiration, weakness, rapid pulse, dizziness, and headaches;
 - b. Cool skin, sometimes pale and clammy, with perspiration;
 - c. Normal or subnormal body temperature; and
 - d. Possible nausea, vomiting, and unconsciousness.

IV. Preventive Care and Precautions

- A. Offenders incarcerated within the TDCJ shall be assessed for medical and mental impairments by qualified healthcare personnel who will assign each offender appropriate restrictions related to physical activities, transportation, and work. Appropriate limitations and restrictions shall be assigned and entered on the Health Summary for Classification (HSM-18). Restrictions may indicate:
 1. No Work in Direct Sunlight – This applies to individuals taking certain medications or who have conditions that are significantly aggravated by exposure to direct sunlight for which sunscreen, protective clothing, or equipment is inadequate. Refer to CMHC policy D-27.3, “Photosensitivity.”

2. No Temperature Extremes – This applies to individuals prescribed certain heat-sensitive medications or those who have a condition causing them to be sensitive to extreme temperatures, such as Reynaud’s Phenomenon, or a history of heatstroke. Heat index and chill factor shall be taken into account when considering extreme temperatures. Refer to CMHC policy D-27.2, “Heat Stress” for a list of heat-sensitive medications.
- B. TDCJ and medical staff shall work together to identify offenders susceptible to temperature-related illness due to medical conditions. Medical staff shall provide correctional staff a list of offenders susceptible to temperature-related illness due to medical conditions, including offenders on prescribed diuretics or other medications known to inhibit the dissipation of heat.
 - C. Representatives from various divisions shall meet annually to review best practices concerning preventive care and precautions with extreme temperatures. A mainframe message shall be sent from the Correctional Institutions Division (CID) director to inform unit wardens of these best practices in order to provide guidance in the prevention of heat-related injuries and illness.
 - D. Training will be conducted at units as outlined in Section VI.
 - E. In situations where the heat index is over 90° F, units will initiate the following steps:
 1. Provide additional water and cups in offender dorms and housing areas and during meal times, along with ice, if possible;
 2. Transport psychiatric inpatient offenders to other facilities via air-conditioned transfer vehicles only;
 3. Transport offenders during the coolest hours of the day, when possible;
 4. Allow offenders to wear shorts in dayrooms and recreational areas;
 5. Ensure maintenance of fans, blowers, and showers in offender housing areas;
 6. Ensure all employees currently have, or are provided with, Treatment and Prevention of Heat/Cold Illness Pocket Cards, obtained through the Prison Store and available at the units, and that the cards are carried on their person while at the unit;
 7. Allow additional showers for offenders when possible. Lower the water temperature for single temperature showers in offender housing areas;

8. Place posters in housing areas reminding offenders of heat precautions and the importance of water intake; and
9. Allow fans for offenders in all custody levels, to include administrative segregation and disciplinary status. Ensure fan program is in place allowing the permanent issue of fans to indigent offenders. Fans shall only be confiscated if altered or stolen.

V. Emergency Treatment

A. In all cases of temperature-related incidents or injuries:

1. The first aid process shall be initiated immediately by correctional or other unit staff.
2. Medical staff and the unit risk manager shall be notified immediately. If there is no on-site medical staff, 911 shall be called immediately.
3. Any temperature-related incident or injury shall be reported to the Emergency Action Center in accordance with AD-02.15, "Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents."

B. If an injury is sustained in extreme cold conditions, staff shall:

1. Bring the distressed offender out of the cold and restrict any further duties or activities until the severity of the injury is evaluated.
2. Remove any wet clothing and insulate the offender with dry, warm blankets or clothing, ensuring all constricting items of clothing and footwear are removed from injured areas and the injured areas are covered.
3. If frostbite exists, gently heat the affected area with warm water or towels, a heating pad, or hot water bottles. Do not rub the affected area or rupture blisters.
4. If a lower extremity is affected, treat by slightly elevating the affected area.
5. If the offender is conscious, encourage consumption of warm, sweetened liquids.
6. If necessary, initiate the "CAB" of life support - restore Circulation, open Airway, and assist Breathing.
7. If evacuation from cold requires travel on foot, do not thaw the affected area until the offender reaches medical help.

8. Transport the offender to medical care as soon as possible and continue treatment after arriving at the site or when the offender is delivered to medical staff's care.
- C. If an injury is sustained in extreme heat conditions, staff shall:
1. Immediately begin an attempt to decrease the offender's temperature by placing the offender in a cool area.
 2. Only force oral fluid intake if the offender is conscious and able to safely swallow.
 3. Remove heavy clothing or excess layers of clothing; saturate remaining lightweight clothing with water. Position the offender in the shade, allowing air movement past the offender, and if necessary, fan the offender to create air movement.
 4. If ice is available, place ice packs in armpit and groin areas.
 5. Take all of these measures while moving the offender in the most expeditious means available to continue with and obtain proper medical treatment.
 6. Ensure, whenever medical staff are on-site, treatment is continued as directed by the physician or medical staff.

VI. Training

- A. Each warden shall ensure training in the prevention of injuries due to extreme temperatures is provided by unit medical staff to all supervisors designated by the warden. Training concerning cold extremes shall be completed in September, and training concerning heat extremes shall be completed in May of each year.
1. Supervisors shall be responsible for training employees and work assigned offenders.
 2. Non-work assigned offenders shall be notified of cold and heat awareness via the dayroom bulletin boards and other common use areas, or through publications such as *The Echo* or the *TDCJ Offender Orientation Handbook*.
- B. Training shall be documented as outlined in the *TDCJ Risk Management Program Manual*. Documentation of completed training shall be maintained by the facility health administrator. Copies of all rosters from staff training shall be provided to the human resources representative and unit risk manager. The unit risk manager shall forward a copy of the training roster to the respective regional risk manager.

The regional risk manager shall forward the total number of employees and offenders trained to the Risk Management Central Office.

- C. A standardized training program shall be developed by the TDCJ in conjunction with the University of Texas Medical Branch Clinical Education Department. Each unit shall be provided a copy of the training program in the form of a DVD to facilitate the required training.
1. The initial extreme temperature conditions training is provided in Pre-Service Training sessions, and additional training shall be provided in annual In-Service Training sessions.
 2. The training is given in a group setting, when possible.
 3. All units are responsible for conducting an annual standardized training program using unit-based medical staff.
 4. The facility health administrator for each unit shall submit documentation of heat and cold extreme training for TDCJ employees, medical staff, and offenders to the Health Services Division Office of Health Services Monitoring annually by June 1st.

VII. Notification to TDCJ Administration

- A. Offender deaths during periods of extreme temperatures, when the cause of death is unknown, shall be treated as accidental deaths as defined in AD-02.15, "Operations of the Emergency Action Center and Reporting Procedures for Serious or Unusual Incidents," until ruled otherwise by a medical professional through an autopsy or subsequent evaluation. An administrative incident review is required for all offender deaths, except natural cause attended deaths, in accordance with AD-02.15, during a period of extreme temperatures until affirmatively reclassified as a natural cause attended death by a medical professional.
- B. An annual review of all deaths occurring during periods of extreme temperatures shall be conducted during the last quarter of the calendar year by representatives from the CID, Administrative Review and Risk Management Division, Health Services Division, Executive Services, the Office of the General Counsel, and any other divisions, as appropriate for the incident.

Brad Livingston*
Executive Director

* Signature on file

WIND CHILL INDEX

Wind Speed in MPH	ACTUAL THERMOMETER READING (°F)									
	50	40	30	20	10	0	-10	-20	-30	-40
CALM 5 10 15 20 25 30 35 40	EQUIVALENT TEMPERATURE (°F)									
	50	40	30	20	10	0	-10	-20	-30	-40
	48	37	27	16	6	-5	-15	-26	-36	-47
	40	28	16	4	-9	-21	-33	-46	-58	-70
	36	22	9	-5	-18	-36	-45	-58	-72	-85
	32	18	4	-10	-25	-39	-53	-67	-82	-96
	30	16	0	-15	-29	-44	-59	-74	-88	-104
	28	13	-2	-18	-33	-48	-63	-79	-94	-109
	27	11	-4	-20	-35	-49	-67	-82	-98	-113
40	26	10	-6	-21	-37	-53	-69	-85	-100	-116
Over 40 MPH (little added effect)	MINIMAL DANGER (for properly clothed person)				INCREASING DANGER (Danger from freezing or exposed flesh)			GREAT DANGER		

The human body senses “cold” as a result of both the air temperature and wind velocity. Exposed flesh cools rapidly as the wind velocity increases. Frostbite can occur at relatively mild temperatures if wind penetrates the body insulation. For example, when the actual air temperature of the wind is 40°F and its velocity is 30 mph (48 km/h), the exposed skin would perceive this situation as an equivalent still air temperature of 13°F.

Clothing considered appropriate and currently available in inventory is thermal underwear, insulated jackets, cotton and leather gloves, insulated hoods, work shoes, and socks. Again, caution shall be taken when exposure occurs for longer periods of time.

HEAT AND HUMIDITY MATRIX

	AIR TEMPERATURE (°F)										
	70	75	80	85	90	95	100	105	110	115	120
Relative Humidity	Apparent Temperature										
0%	64	69	73	78	83	87	*91	*95	*99	*103	**107
10%	65	70	75	80	85	*90	*95	*100	**105	**111	**116
20%	66	72	77	82	87	*93	*99	**105	**112	**120	***130
30%	67	73	78	84	*90	*96	*104	**113	**123	***135	***148
40%	68	74	79	86	*93	*101	**110	**123	***137	***151	
50%	69	75	81	88	*96	**107	**120	***135	***150		
60%	70	76	82	*90	*100	**114	***132	***149			
70%	70	77	85	*93	**106	**124	***144				
80%	71	78	86	*97	**113	***136					
90%	71	79	88	*102	**122						
100%	72	80	*91	**108							

* Heat exhaustion possible

** Heatstroke possible

*** Heatstroke imminent

Heat Exhaustion: Staff shall ensure adequacy of water intake, look for signs of exhaustion, and provide five minute rest breaks every hour.

Heatstroke Possible: Staff shall promote high water intake, provide five minute rest breaks every one-half hour, lying down with feet up, and reduce work by one-third.

Heatstroke Imminent: Staff shall secure outside work or reduce work pace by one-half to two-thirds, provide 10 minute rest breaks every one-half hour, lying down with feet up, and insist on increased water intake.

Heat and Humidity: At high temperatures, the human body normally cools itself through the evaporation of perspiration, but humidity interferes with this process. The above table, from the National Weather Service, shows how discomfort and health risks grow as heat and humidity increase. Remember: Apparent temperatures may run 15 to 30 degrees higher in urban areas with vast expanses of concrete and asphalt.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
Temperature Log

Unit: _____

Date:	Outside Air Temperature	Humidity or Wind Speed	Heat Index or Wind Chill**	Person Recording
12:30 a.m.				
1:30 a.m.				
2:30 a.m.				
3:30 a.m.				
4:30 a.m.				
5:30 a.m.				
6:30 a.m.*				
7:30 a.m.*				
8:30 a.m.*				
9:30 a.m.*				
10:30 a.m.*				
11:30 a.m.*				
12:30 p.m.*				
1:30 p.m.*				
2:30 p.m.*				
3:30 p.m.*				
4:30 p.m.*				
5:30 p.m.*				
6:30 p.m.*				
7:30 p.m.				
8:30 p.m.				
9:30 p.m.				
10:30 p.m.				
11:30 p.m.				

* Temperatures and Wind Chill Index/Heat Index to be announced over the radio

** Temperatures between 51 and 69 degrees Fahrenheit (°F) are not represented on the Wind Chill Index (Attachment A) or the Heat and Humidity Matrix (Attachment B). Indicate (N/A) in these fields when applicable.